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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 **IN RE GOOGLE PLAY STORE**
6 **ANTITRUST LITIGATION**

Case No. 3:21-md-02981-JD

7 THIS DOCUMENT RELATES TO:

**JOINT CASE MANAGEMENT
STATEMENT**

8 *Epic Games Inc. v. Google LLC et al.*, Case
9 No. 3:20-cv-05671-JD

Date: November 18, 2021

Time: 11:00 a.m.

10 *In re Google Play Consumer Antitrust*
11 *Litigation*, Case No. 3:20-cv-05761-JD

Courtroom: 11, 19th Floor (by remote access)

Judge: Hon. James Donato

12 *In re Google Play Developer Antitrust*
13 *Litigation*, Case No. 3:20-cv-05792-JD

14 *State of Utah et al. v. Google LLC et al.*, Case
15 No. 3:21-cv-05227-JD

Pursuant to this Court’s Order dated October 22, 2021 (*In re Google Play Store Antitrust Litigation*, No. 3:21-md-02981-JD (N.D. Cal. 2021) (“MDL”) Dkt. No. 122), setting a status conference for November 18, 2021, the parties in the above-captioned MDL action (“the Parties”), by and through their undersigned counsel, submit this Joint Case Management Statement.

I. CASE STATUS SUMMARY

A. Case Schedule

On October 22, 2021, the Court issued an MDL Scheduling Order, setting an October 17, 2022, trial date and pretrial deadlines for this MDL action.

B. Pleadings

On November 1, 2021, Epic filed an Answer to Google’s Counterclaims. MDL Dkt. No. 136. On November 1, 2021, the State Attorneys General (“State AG”) Plaintiffs filed an Amended Complaint. *Utah v. Google LLC*, No. 3:21-cv-05227, Dkt. No. 188. Google’s responsive pleadings to the State AG’s Amended Complaint are due on November 15, 2021.

C. Administrative Motions to Seal

On October 11, 2021, in connection with Defendants’ Answers, Defenses and Counterclaims to Epic Games, Inc.’s First Amended Complaint for Injunctive Relief, MDL Dkt. No. 111, Google filed an Administrative Motion to Seal in connection with certain materials designated confidential by Epic. MDL Dkt. No 112. Epic has not sought to maintain under seal any portion of Google’s Answer and Counterclaims. Accordingly, the Court may deny Google’s Administrative Motion, MDL Dkt. No 112 as moot.

On November 1, 2021, in connection with its Answer and Defenses to Google’s Counterclaims, MDL Dkt. No. 136, Epic filed an Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed in connection with certain materials designated confidential by Google (MDL Dkt. No. 137). Google has not sought to maintain under seal any portion of Epic’s Answer and Defenses to Google’s Counterclaims. Accordingly, the Court may deny Epic’s Administrative Motion, MDL Dkt. No. 137, as moot.

II. STATUS OF DISCOVERY

A. Deposition Protocol

The Parties have met and conferred regarding a deposition protocol to govern the depositions in this MDL action. On October 28, 2021, the Parties submitted a Joint Discovery Letter Brief to the Court regarding a dispute concerning Rule 30(b)(6) depositions. MDL Dkt. No. 134. On November 5, 2021, the Court issued an order regarding the Parties' dispute. MDL Dkt. No. 141. The Parties will meet and confer and submit a deposition protocol to the Court that incorporates the Court's November 5, 2021 Order.

B. Fact Depositions

The Parties are set to begin fact depositions in December. On November 5, 2021, Plaintiffs requested that Google provide dates for twenty witnesses that Class Plaintiffs believe need to be deposed prior to class certification, including three of four witnesses for which Plaintiffs had requested deposition dates on August 30, 2021, and one witness for which Plaintiffs had requested a deposition date on October 24, 2021 as a substitute for one of the original four who was unavailable prior to class certification. Three of those witnesses are now scheduled for December 2, 9, and 20. Because the opening briefs on class certification are due January 28, 2022, Plaintiffs have requested these twenty depositions take place before January 15, 2022.

On October 15, 2021, Google requested depositions of consumer class plaintiffs and three Epic witnesses. Epic offered dates for two of its witnesses on December 16 and January 7, and Consumer Plaintiffs are gathering dates for their class representatives. The Parties continue to meet and confer on the scheduling of depositions.

C. Document Discovery Update

The Parties have made significant progress to date and continue to engage in discovery on a range of topics. There are meet and confers underway to address outstanding discovery issues, and the Parties are hopeful that the remaining issues will be resolved through negotiation.

1 On October 21, 2021, Google announced that it was reducing its service fee on
2 subscriptions purchased through Google Play from 30 percent to 15 percent. On October 25,
3 2021, Plaintiffs requested that Google produce documents and communications related to
4 Google's change to the fee structure. The Parties are meeting and conferring regarding Plaintiffs'
5 request. One deponent Plaintiffs have requested before class certification, a Vice President of
6 Project Management responsible for Google Play, made Google's announcement.

7 On November 1, 2021, Google amended its initial disclosures, including by adding three
8 new individuals who had not previously been identified in this litigation as individuals
9 reasonably likely to have discoverable information that Google may use to support its claims
10 and/or defenses. On November 5, 2021, Plaintiffs requested that Google produce certain
11 custodial documents from the files of these individuals. The Parties are meeting and conferring
12 regarding Plaintiffs' request.

13 The State AG Plaintiffs have indicated that they plan to serve their initial disclosures on
14 or before November 19, 2021.

15 **D. Source Code**

16 The Parties continue to negotiate the scope of source code that Google will make
17 available for Plaintiffs' experts to review and an associated protective order. The Parties are
18 hopeful that the source code issue will be resolved quickly so that, to the extent Class Plaintiffs
19 believe such information is necessary for class certification, Plaintiffs' experts will have
20 sufficient time to review the necessary information.

1
2 Dated: November 11, 2021

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10 Respectfully submitted,

11 By: /s/ Yonatan Even
12 Yonatan Even

13 *Counsel for Plaintiff Epic Games, Inc.*
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11 Dated: November 11, 2021

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E-FILING ATTESTATION

I, Marianna Y. Mao, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Marianna Y. Mao
